

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C 11-05386 WHA

In Re Diamond Foods, Inc.,  
Securities Litigation

**ORDER APPOINTING  
CLASS COUNSEL**

\_\_\_\_\_  
This Document Relates to:  
All Actions.  
\_\_\_\_\_

By order dated March 20, 2012, Mississippi PERS was appointed lead plaintiff. Mississippi PERS has filed its certification signed by both the Mississippi Attorney General's Office and the chief executive of Mississippi PERS (Dkt. No. 99). Mississippi PERS now moves for appointment of co-lead class counsel. In compliance with the March 20 order, Mississippi PERS has submitted under seal, declarations explaining the due diligence undertaken in its selection of counsel, including an explanation of why the counsel selected was favored over other potential candidates.

The lead plaintiff, Mississippi PERS has reviewed counsel proposals from a number of law firms and has submitted its recommendation under seal for the Court's review. The Court sought clarification and additional information regarding certain issues related to the various proposals and lead plaintiff's recommendation. Supplemental information was then submitted under seal by Mississippi PERS.

Pursuant to the Private Securities Litigation Reform Act, “[t]he most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class.” 15 U.S.C. 78u-4(a)(3)(B)(v). “[I]f the lead plaintiff has made a reasonable choice of counsel, the district court should generally defer to that choice.” *Cohen v. U.S. Dist. Court for N. Dist. of Cal.*, 586 F.3d 703, 712 (9th Cir. 2009). Based on the recommendation of lead plaintiff and based on the Court’s review of the materials submitted, the Court appoints Attorneys John F. Harnes, Robert W. Killorin, Meryl W. Roper, and Ze’eva Kushner Banks from the firm of Chitwood Harley Harnes LLP, and the firm of Lieff Cabraser Heimann & Bernstein LLP, as class counsel. No attorney has been identified as the lead attorney from the Lieff Cabraser firm. Attorney Harnes must serve as lead counsel, with a commitment to taking the major depositions in this case, actively supervising the investigation and motion practice, trying the case (if need be), and negotiating settlement. Three law firms will not be appointed due to the risk of wasteful duplicative effort.

The lead plaintiff is ordered to maintain the confidence of all proposals and not to discuss the selection process without further order of the Court.

Class counsel must file a consolidated complaint within **45 CALENDAR DAYS** of the date of this order. Defendants may then file a motion to dismiss (or answer) within **45 CALENDAR DAYS**. Any such motion shall be noticed on the normal 35-day track.

**IT IS SO ORDERED.**

Dated: June 13, 2012.



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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE